

STATE COMPLAINT

10/07

STATE OF CONNECTICUT  
LABOR DEPARTMENT  
CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF The State Employees  
Bargaining Agent Coalition, (RESPONDENT) The  
Division of Criminal Justice, Governor  
Dannel Malloy and the Connecticut  
-AND- Association of Prosecutors

(COMPLAINANT)

Lisan Herskowitz

Amendment to  
CASE NO. SPP-29298

RESPONDENT'S ADDRESS: see attachedRESPONDENT'S PHONE: see attached

NUMBER OF EMPLOYEES INVOLVED IN ALLEGED PROHIBITED PRACTICE: see original complaint  
UNIT DESCRIPTION OR NATURE OF WORK DONE BY EMPLOYEE(S) INVOLVED: \_\_\_\_\_

COMPLAINT

PURSUANT TO SECTION 5-274 OF AN ACT CONCERNING COLLECTIVE BARGAINING FOR STATE EMPLOYEES, THE UNDERSIGNED ALLEGES THAT THE ABOVE-NAMED RESPONDENT HAS ENGAGED IN AND IS ENGAGING IN PROHIBITED PRACTICES WITHIN THE MEANING OF SECTION 5-272 OF SAID ACT, IN THAT: (SPECIFY THE PARTICULAR ALLEGED VIOLATION, WITH A GENERAL STATEMENT OF THE FACTUAL BASIS FOR THE COMPLAINT.)

This is an amendment to complaint No. SPP-29298.  
It is meant to augment it. Please see attached.

SUBSCRIBED AND SWORN TO BEFORE ME THIS

26 DAY OF July 20 11

NOTARY PUBLIC  
JUSTICE OF THE PEACE  
COMMISSIONER OF SUPERIOR COURT



Lisan Herskowitz

COMPLAINANT

SIGNATURE

Lisan Herskowitz, Sr. Asst. State's Atty

PRINT NAME &amp; TITLE

COMPLAINANT'S ADDRESS:

Office,  
Superior Court GA12, State's Attorney's Office  
410 Center Street, Manchester, CT 06046

COMPLAINANT'S PHONE: 860-649-4779 (work)

CERTIFICATION OF SERVICE

I HEREBY CERTIFY THAT, PURSUANT TO SECTION 5-273-23 OF THE CONNECTICUT GENERAL REGULATIONS, A COPY OF THE FOREGOING WAS MAILED TO THE RESPONDENT BY REGISTERED OR CERTIFIED MAIL.

Lisa Herskowitz Complaint

#### ADDRESSES AND PHONE NUMBERS OF RESPONDENTS

State Employees Bargaining Agent Coalition, c/o Attorney Dan Livingston, 557 Prospect Avenue, Hartford, CT 06105, (860) 233-9821.

Division of Criminal Justice, c/o Chief State's Attorney Kevin Kane, 300 Corporate Place, Rocky Hill, CT 06067, (860) 258-5800.

Governor Dannel Malloy, Office of the Governor, State Capitol, 210 Capitol Avenue, Hartford, CT 06106, (860) 566-4840.

Connecticut Association of Prosecutors, c/o Attorney Jack Doyle, Union President, State's Attorney's Office, 235 Church Street, New Haven, CT 06510, (203) 927-5356.

#### AMENDMENT TO COMPLAINT (continued)

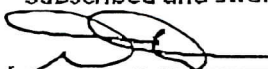
The respondents have continued to engage in coercion and interference with the rights of union members, to refuse to bargain in good faith, and to violate the duty of fair representation, in violation of Connecticut General Statutes Sections 5-271 and 5-272. The member unions rejected the tentative agreement in June in accordance with SEBAC's former bylaws even though 57 percent of the members purportedly voted in favor of it. The no vote was finalized on July 5, 2011, I believe. That should have closed the contracts and ended the negotiations, but SEBAC begged the governor to resume negotiations.

The governor threatened, not only massive layoffs after the agreement was voted down, but also legislative changes to state-employee benefits that are mandatory subjects of bargaining. The State Senate actually passed such a bill on June 30. I believe it was SB 1301. I also believe the governor called for it the day before. In decision No. 2456 dated January 14, 1986, at page 10, the State Board of Labor Relations (Board) stated that "threats and attempts ... to seek legislative changes in conditions of employment that are mandatory subjects of bargaining are not favored ..." While the board held in that case that such conduct did not constitute bargaining in bad faith, the Board relied on the facts that the legislature was unwilling to allow such an "end run" around the bargaining process, and also that the State did bargain in good faith for an extended period of time after the threat.

In this case, the democrat-controlled legislature has demonstrated a willingness to legislate against union members at the request of the governor, thus the threat is very real. The House did not vote on the bill so it is still out there. It was tabled pending further action by SEBAC. Moreover, since then, the governor has continually refused to bargain in good faith. He refused to negotiate at all unless SEBAC first changed its bylaws in a way that would have permitted passage of the original agreement. He also refused to consider anything but a "clarified" version of the rejected agreement. Then, on July 21, he set a final deadline of July 22 for SEBAC to endorse what is essentially the same agreement, which they did at about 10:00 p.m. Talk about pressure and coercion!

  
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Lisa Herskowitz

Subscribed and sworn before me this 26 day of July, 2011.

  
\_\_\_\_\_, Commissioner of the Superior Court



## Lisa Herskowitz Complaint

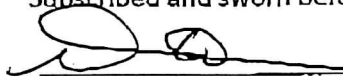
Leo Canty is Executive Secretary of the Connecticut AFL-CIO and second vice president of the AFT-Connecticut, which is a SEBAC union. I believe he casts the vote for AFT but cannot be sure because he has consistently refused to provide me and others with the minutes of the SEBAC meetings. Saturday morning, July 23, Leo posted on the SEBAC Facebook page, InThisTogether, "Our vote? This is absolutely awful – what DANNO is doing to us all- he is awful. –but you are correct – no one 'likes' a concession package – and...no one "likes" layoffs (except POWER RANGER DANNO)...no one (except heartless TIN MAN DANNO) 'likes' seeing the poor and disadvantaged suffer from lack of vital services for them no one wants to see our collective bargaining rights skewered (except (R) ENVY PSEUDOCHRISTIE DANNO (R) CT) someone has to use their brains and their hearts and their power or money, whatever that may be, to end the atrocities – it's not sared sacrifice here...its ours . . ." Clearly the governor did not bargain in good faith. Clearly SEBAC leaders knuckled under. Leo's duress is evident from his words. I wish SEBAC had refused to be coerced and filed a complaint. They didn't so I am doing it for them. I still would like to see the minutes from all of the SEBAC meetings on these issues.

As for my own union, CAP, they have continued to violate their duty of fair representation. Under the former SEBAC bylaws, my extremely small union – between 250 and 260 members – had some power because any two unions could reject an agreement. Now eight unions and fifty percent of the vote plus one (instead of two unions and twenty one percent) are needed to reject an agreement. My union no longer has a meaningful voice in a sea of 45,000 plus state employee union members. Our president, John Doyle, never asked for member input on changing the bylaws. Even though our union passed the agreement, it was only by seven votes with a larger number not voting, and voting to change the bylaws and render our union powerless and helpless is a vital and completely different issue. I emailed our union Vice President, Christopher Godialis, as well as John Doyle about this but didn't get a response. It is impossible to fairly represent the membership on such an important issue without consulting them or even telling them what you are planning on doing. Also, John Doyle never asked for input before endorsing the "clarified" agreement, just like he didn't consult with us regarding the original agreement.

Moreover, I just learned today, July 25, 2011, that CAP violated its own bylaws during the voting process on the original agreement. Our bylaws require a meeting to transact any business, with a quorum present, presumably so we can assemble and debate and a minority cannot make decisions for us. There was no meeting. The bylaws also require that membership action on any issue "shall require the affirmative vote of at least two-thirds of the votes ..." Our vote was 114 yes to 107 no, not even close to the two-thirds needed for affirmation. Nevertheless, our leader registered our vote as a yes vote in violation of our bylaws.

As for SEBAC, they have once again exceeded their authority by negotiating our wages. This is totally unfair. As small as my union is, no matter what our vote is, other unions will determine what happens to our wages, increments or bonuses, and longevity pay. We are supposed to negotiate this individually. SEBAC has usurped and interfered with our normal collective-bargaining process, and my union has again violated its duty of fair representation by allowing it.

  
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Lisa Herskowitz

Subscribed and sworn before me this 26 day of July, 2011.  
  
\_\_\_\_\_, Commissioner of the Superior Court

## Lisa Herskowitz Complaint

Under its former bylaws, SEBAC is required to give 30 days written notice to all members of any vote to change the bylaws. They did not do it. The leaders "waived" it. The bylaws change has huge implications. The notice requirement was designed to give union members time to object and maybe seek legal redress. Waiving it violated the duty of fair representation. I believe the members should have been allowed to vote on the bylaws change. At the very least, they should have been given adequate notice and an opportunity to protest it.

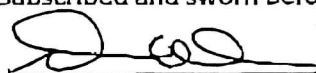
SEBAC has also violated the duty of fair representation by endorsing an agreement that is in all material respects the same as the agreement that was voted down. We exercised our collective-bargaining rights and voted no to it. To resurrect it goes beyond mere interference with our rights, it runs our rights over with a truck and then backs up and runs them over again. The agreement was rejected. Then SEBAC changed the rules of voting. Then they endorsed the same agreement. They have for all intents and purposes eliminated our rights entirely. It would be unconscionable to allow them to make us keep voting until they get the result they want. That is if they even let us vote. There have been suggestions that not all of us will even be allowed to vote on the "clarified" agreement.

The original agreement was voted down in June. Our contracts remained unchanged. Even under the new bylaws, SEBAC needs the approval of 14 unions with at least eighty percent of the membership to reopen an existing contract. SEBAC apparently reopened "negotiations" again without such a vote. Leo Canty claims they could do this because they never re-closed the contract after the no vote. I believe this was unfair. Had there been a new vote on re-opening the contracts, Sal Luciano probably would have been constrained to vote no on it, just as he voted no to the bylaws change. The contracts would not have been reopened because Sal's union, AFSCME, represents more than twenty percent of the membership. By changing bylaws and waiving notice and waiving a new vote under Section 10(a) of their bylaws on whether to reopen the contract, SEBAC is essentially coercing the membership into ratifying an agreement we have already voted down. I have been trying to get information on what actually happened Friday night. Was there a vote to endorse the "clarified" agreement? What was the vote? I have been unable to obtain any information so far from either SEBAC or CAP.

SEBAC has a web page, [inthistogetherct.org](http://inthistogetherct.org). They shut down the comments section because of negative comments about the agreement that was voted down. They also have a Facebook page, as mentioned above, which union members resorted to in order to communicate with SEBAC and each other. I was posting on that site Saturday, July 16 into Sunday, July 17, trying to get information on the upcoming vote on bylaws changes. I was verbally attacked by Jim Vigue, who is the Political Director of the Connecticut Employees Union Independent 110. I challenged him on the fact that his union was voting to change the bylaws even though its membership voted down the agreement. He went nuts and attacked me and anyone who came to my defense. He called me a "liar," an "asshole," and a "loser." He said that I and my sister are "two worthless pieces of crap." He apologized the next morning and blamed it on the wine. He has since recanted the "wine" thing and the pagemaster has deleted everything he ever said. I just happen to have copies of the highlights.

  
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Lisa Herskowitz

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 Commissioner of the Superior Court



## Lisa Herskowitz Complaint


Now SEBAC has changed its Facebook policy. Only the pagemaster – usually Leo Canty – can initiate posts. Others can comment but they have been deleting any negative comments. They have managed to banish me from commenting at all. Everything on there is pro-agreement now, except for Leo's one post quoted above, and that has already been deleted. Matt O'Connor is on television all the time for SEBAC. This weekend, he told all of the "union busters" (aka "no" voters) to "fuck off & let our voters freely vote this time..." We are union dissenters, not busters.

In Decision No. 2464 dated March 19, 1986, the Board talked extensively about union members' rights to free speech, and specifically to engage in criticism. It is coercive for SEBAC to post only positive comments on their Facebook page. Anyone who doesn't know the history would think that everyone is in favor of the agreement. It also allows them to post misinformation and refuse to let anyone dispute it. They are engaging in content-based censorship in violation of the constitution and in an effort to push people into voting yes.

SEBAC, CAP and all of the unions in my opinion have violated the duty of fair representation by doing nothing to defend state employee union members in the press and at the legislature. They keep trying to shove this agreement down our throats. They act like the members did something wrong in rejecting it and they have to save us from ourselves. They have made us look bad to the public by touting something that we rejected as a "great deal." The leaders are not representing us at all, just themselves, and they are bringing scorn and wrath down upon us. They are even attacking some of us in an unprofessional way on their public Facebook page. They have labeled the dissenters, or even those just questioning the fairness and legality of their latest moves, as "destructive" forces. We pay dues. We have a right to dissent, to question, to demand information they refuse to provide. They represent us, right? How can demonizing us possibly be fair representation?

Had SEBAC and the unions asked for our input the first time around and offered something to us that was honest and palatable, we state employees would all be heroes. Instead they let the governor dominate them and put before us an agreement we couldn't accept and subjected us to scorn, ridicule and anger. This breach of duty is so bad that I believe SEBAC and all of the member unions should be decertified. There may be another vote coming, if they let all of us vote at all. I pray the Board will take action as quickly as possible. These abuses of union members' rights are flagrant and will continue until the governor and management and SEBAC and the individual unions get what they want. Please act as soon as possible to put an end to it.

Thank you for your attention and consideration.

  
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Lisa Herskowitz

Subscribed and sworn before me this 26 day of July, 2011.

  
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Commissioner of the Superior Court